



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

LATE

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
March 5, 2009

S.B. 21 (Proposed, S.D. 1) –
RELATING TO GOVERNMENT

The Hawaii Government Employees Association supports the intent of S.B. 21 (Proposed S.D. 1), but opposes Section 3 of the bill which appears to exempt public works projects funded through the federal economic stimulus package from certain provisions in Chapters 103 and 104, HRS. The Davis-Bacon Act, at both the federal and state levels, is designed to outlaw wage exploitation in public construction contracts by preventing the undercutting of local standards.

Because public works contracts usually go to the lowest bidder, lawmakers decided it was in the best interests of the government and the general public to make sure that tax dollars are not spent on contractors that pay substandard wages to obtain contracts. "Prevailing wage" standards were established, which are set by surveys of actual wages paid in local communities, and anyone awarded a government contract must pay at least those prevailing wages.

If our reading of the bill is correct, this would mean that before a bidder enters into a contract for construction of a public work project, they would not have to certify existing labor law requirements prior to the contract being awarded. These include prevailing wage, overtime compensation and full compliance with the applicable laws of the state and federal governments related to workers' compensation, unemployment compensation, payment of wages and safety.

The national and local economic problems we confront should not be used to waive these requirements that protect employees. Chapters 103 and 104, HRS, are an essential foundation of a decent standard of living for those working in the construction industry. Even the temporary suspension of certain provisions within Chapters 103 and 104, HRS, will have negative consequences for construction workers, their industry and the larger community. The suspension of safety requirements is particularly troublesome because it could put pressure on employers to cut corners in safety and

LATE

Hawaii State Senate, Committee on Ways and Means
S.B. 21 (Proposed, S.D. 1) – Relating to Government
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health protections. This may lead to additional workplace injuries and more lost work days.

The HGEA opposes any attempt to weaken our state's "Little Davis-Bacon" law or to exempt certain public projects from prevailing wage standards. When contractors compete on the basis of skill and productivity, we all benefit. When they compete to have the lowest wages or labor standards, we all lose. Unless Section 3 of the bill is amended, we cannot support S.B. 21 (Proposed S.D. 1).

Thank you for the opportunity to provide testimony on this measure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nora A. Nomura", with a long horizontal flourish extending to the right.

Nora A. Nomura
Deputy Executive Director

LATE



To: Senate Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Senate Committee on Labor
Senator Dwight Y. Takamine, Chair
Senator Brian T. Taniguchi, Vice Chair

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Date: March 5, 2009 - Conference Room 211 – 10:00 a.m.

Re: **SB 21, SD1, RELATING TO GOVERNMENT**

Chairs Taniguchi, Takamine, Mercado Kim and Committee Members:

My name is Barbara Kim Stanton, State Director of AARP Hawaii. AARP is a membership organization of people 50 and older with nearly 160,000 members in Hawaii. We are committed to championing access to affordable, quality health care for all generations, providing the tools needed to save for retirement, and serving as a reliable information source on issues critical to Americans age 50+.

AARP strongly supports SB 21, SD1 which creates temporary exemptions in procurement, rule making, and public employment statutes for programs, services and benefits using funds allocated to the State by the American Recovery and Reinvestment Act (ARRA) of 2009. We believe this legislative vehicle is urgently and immediately needed to expedite access to these time-limited funds by allowing the State greater administrative flexibility for the specific purpose of ARRA until December 31, 2010.

Hawaii's critical budget shortfall has created hardship for our most vulnerable residents at unprecedented levels and numbers. We are deeply concerned about the rapid erosion of our safety net services where the numbers of keiki, elderly and disabled residents are falling between the cracks of society. We are at a point where such basic services as meals-on-wheels, and bathing services to the disabled and aged, are being curtailed or discontinued in its entirety.

Although ARRA funding will not eliminate our state's budget deficit, it will reduce financial pressure and the need for significant cuts in some state programs. As a source of temporary relief, the State can maximize availability of the increased Medicaid FMAP for Medicaid

expenditures over 2¼ years, October 1, 2008 through December 31, 2010. This would also be an opportunity for Hawaii to apply state funds to maximize the increased DSH (disproportionate share hospitals) allotment to the State.

We strongly urge our legislators to protect our most vulnerable population. Expediting passage of SB 21, SD1 would allow the State to take full advantage of ARRA funds---to stimulate the economy, preserve and create jobs, and support our most vulnerable citizens.

From: ILWU Secretaries [secretaries@ilwulocal142.org]
Sent: Thursday, March 05, 2009 8:28 AM
To: JGO Testimony
Subject: Statement of the ILWU Local 142 on SB 21

LATE

The Twenty-Fifth Legislature

Regular Session of 2009

THE SENATE

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Senator Dwight T. Takamine, Vice Chair

COMMITTEE ON LABOR

Senator Dwight T. Takamine, Chair

Senator Brian T. Taniguchi, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

State Capitol, Conference Room 211

Thursday, March 5, 2009; 10 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON SB 21

The ILWU Local 142, while in support of the necessary effort to facilitate and expedite the implementation of the American Recovery and Reinvestment Act of 2009, has concerns regarding SB 21 SD1 Proposed RELATING TO GOVERNMENT.

Our primary concern is "Section 3. Sections . . . 103-55[,] and 103-55.5, Hawaii Revised Statutes, shall not apply to contracts for goods, services, construction, or health and human services using federal funds authorized by the American Recovery and Reinvestment Act of 2009, and matching state funds required to access the federal funding in the American Recovery and Reinvestment Act of 2009. . ." These two sections require that wages paid by the companies contracted for services do not undercut the wages paid to public employees doing the same work and that there is compliance with all labor laws. Surely, the expeditious implementation of the American Recovery and Reinvestment Act of 2009 should not mean the undermining of labor standards nor should this be an excuse to undermine the living standard of the middle class. In our opinion the Act was intended to pave the road to economic recovery by strengthening the middle class and supporting working families.

Thank you for your consideration of our strong concerns about SB 21 SD1 Proposed.

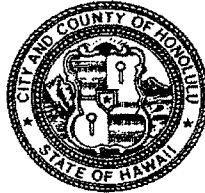
/csp/howu

DEPARTMENT OF HUMAN RESOURCES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET 10TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4809 • FAX: (808) 527-5563 • INTERNET: www.honolulu.gov/hr

LATE

MUFI HANNEMANN
MAYOR



KENNETH Y. NAKAMATSU
DIRECTOR

March 5, 2009

Honorable Brian T. Taniguchi, Chair
and Members of the Committee on
Judiciary and Government Operations
Honorable Dwight Y. Takamine, Chair
and Members of the Committee on Labor
Honorable Donna Mercado Kim, Chair
and Members of the Committee on
Ways and Means
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Taniguchi, Takamine, Mercado Kim and Members of the Committees:

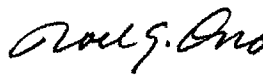
**Subject: Senate Bill 21, Proposed Senate Draft 1
Relating to Government**

The Department of Human Resources **supports the intent of** Senate Bill No. 21, Senate Draft 1 (as proposed) which would create temporary exemptions in procurement, rule making and public employment statutes to facilitate the use of funds from the American Recovery and Reinvestment Act of 2009. The Department of Human Resources asks that the proposed bill be amended to extend the temporary exemptions to the City.

The City anticipates it will also receive funds from the Stimulus bill and as this measure is intended to enhance the State's ability to use those funds, the City would like to be afforded similar opportunities.

Thank you for the opportunity to testify.

Sincerely yours,


for Ken Y. Nakamatsu, Director
Department of Human Resources

LINDA LINGLE
GOVERNOR



LATE

RUSS K. SAITO
Comptroller

BARBARA A. ANNIS
Deputy Comptroller

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119**

TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEES
ON
JUDICIARY AND GOVERNMENT OPERATIONS,
LABOR
AND
WAYS AND MEANS
ON
March 5, 2009

S.B. 21, S.D. 1 Proposed

RELATING TO GOVERNMENT

Chair Taniguchi, Chair Takamine, Chair Kim, and members of the Committees, thank you for the opportunity to testify on S.B. 21, S.D. 1 Proposed.

The Department of Accounting and General Services (DAGS) supports S.B. 21, S.D.1 Proposed. This bill will help the State obtain the maximum benefit from funds that are made available through the American Recovery and Reinvestment Act of 2009 (ARRA). It will do so by allowing agencies to use two methods for procuring contracts for goods, services, construction, or health and human services when necessary to meet the stringent deadlines required for contracts that are authorized by ARRA.

One of the methods involves small contracts similar to the procurement code's small purchase source selection method. The other method involves larger contracts and is similar to the source selection method for federal grants. These methods would be used when necessary to

award contracts or perform work under the time frames required by ARRA. When the ARRA time frames can be met by following the procurement code, agencies can do so.

Other provisions of this act are also aimed at enabling State agencies to fulfill the contract award and performance requirements of ARRA grants the State will be seeking from Federal Agencies. These special provisions will be in effect only as long as necessary for the State to obtain and expend funds it qualifies for under ARRA.

Thank you for the opportunity to testify on this matter.

LATE

The Senate
Committees on Judiciary and Government Operations,
Labor and Ways and Means
March 5, 2009, 10:00 a.m.
Conference Room 211

Statement of the Hawaii Carpenters Union on S.B. 21

The Hawaii Carpenters Union strongly opposes in Section 3 of S.B. 21, the waiver of 103-55.5, and urges it's deletion from the Bill.

103.55-5, Wages and hours of employees on public works construction contracts, provides that a bidder or offeror affirm the intent to comply with Chapter 104, prior to entering into a contract for a public works project.

The projects covered by S.B. 21 will clearly be public works. They will not be exempt from Chapter 104. The affirmation is important to 1) fairly inform bidders, and 2) to prevent challenges and charges. Lack of knowledge of the requirements of Chapter 104 has been used as a defense for noncompliance.

The affirmation pursuant to 103-55.5 is straightforward, and will not delay the procurement process.

The American Recovery and Reinvestment Act of 2009 provides that all construction projects funded in any way by the Act, including via tax credits, shall be public works subject to prevailing wage requirements.

Delete the reference to 103.55-5, to avoid the creation of a seeming loophole that will lead to confusion and possibly administrative and court disputes.

We appreciate the effort to put the Federal funds provided to work. However, we would be compelled to oppose it in its current form. We may have further comment after further review of the impact of the Bill on fair procurement.

From: ILWU Secretaries [secretaries@ilwulocal142.org]
Sent: Thursday, March 05, 2009 9:28 AM
To: JGO Testimony
Subject: REVISED - Statement of the ILWU Local 142 on SB 21

LATE

The Twenty-Fifth Legislature

Regular Session of 2009

THE SENATE

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Senator Dwight T. Takamine, Vice Chair

COMMITTEE ON LABOR

Senator Dwight T. Takamine, Chair

Senator Brian T. Taniguchi, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

State Capitol, Conference Room 211

Thursday, March 5, 2009; 10 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON SB 21

The ILWU Local 142, while in support of the necessary effort to facilitate and expedite the implementation of the American Recovery and Reinvestment Act of 2009, has concerns regarding SB 21 SD1 Proposed RELATING TO GOVERNMENT.

Our primary concern is "Section 3. Sections . . . 103-55[,] and 103-55.5, Hawaii Revised Statutes, shall not apply to contracts for goods, services, construction, or health and human services using federal funds authorized by the American Recovery and Reinvestment Act of 2009, and matching state funds required to access the federal funding in the American Recovery and Reinvestment Act of 2009. . ." These two sections require that wages paid by the companies contracted for services do not undercut the wages paid to public employees doing the same work and provide for prevailing wages for public works projects and that there is compliance with all labor laws. Surely, the expeditious implementation of the American Recovery and Reinvestment Act of 2009 should not mean the undermining of labor standards nor should this be an excuse to undermine the living standard of the middle class. In our opinion the Act was intended to pave the road to economic recovery by strengthening the middle class and supporting working families.

Thank you for your consideration of our strong concerns about SB 21 SD1 Proposed.

/csp/howu

REPRESENTATIVE JON RIKI KARAMATSU, CHAIR
REPRESENTATIVE KEN ITO, VICE-CHAIR
HOUSE COMMITTEE ON JUDICIARY

TESTIMONY RE: HOUSE BILL NO. 444
RELATING TO CIVIL UNIONS

February 5, 2009, 2:00 p.m.
Conference Room 325

Good afternoon Chair Karamatsu, Vice-Chair Ito, and members of the committee:

My name is David Lane Henkin, and I am testifying as a father of two wonderful children. I strongly support House Bill No. 444. If the State is to confer rights and impose obligations on its citizens based on their participation in a committed relationship, it should not discriminate based on whether the individuals forming that couple are of opposite sex or the same sex. House Bill 444, which would extend the same rights and obligations as spouses in a marital relationship to civil union partners, is a vital step toward providing the people of Hawai'i with equal protection under the law, regardless of sexual orientation.

My daughter is eight years old, and my son is five. They are too young at this point for me to know their sexual orientation. As a parent, my only hope is that, whether straight, gay, bisexual, or transgender, they will find happiness in a committed relationship with someone they love. When they do, I want to ensure that they will enjoy the same legal rights as any other citizen of this state, regardless of the sex of their partner. Please pass this bill.

Thank you for the opportunity to offer this testimony.

**AUTISM SOCIETY OF HAWAII
P.O. BOX 2559
HONOLULU, HAWAII 96802
808 228-0122**

LATE

THE SENATE
THE TWENTY-FIFTH LEGISLATURE

REGULAR SESSION OF 2009

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

COMMITTEE ON LABOR

COMMITTEE ON WAYS AND MEANS

Comments to SB 21, SD1 Proposed, Relating to Government

Thursday, March 5, 2009, 10:00 a.m.

Conference Room 211

Dear Chairs Taniguchi, Takamine, Kim and Members of the Committees:

My name is Naomi Grossman, and I am the president of the Autism Society of Hawai'i. The Autism Society of Hawai'i is an affiliate chapter of the Autism Society of America. Its members are composed of families who deal with living with the effects of autism and the professionals and paraprofessionals who serve them.

The Autism Society of Hawai'i will provide leadership in the field of autism dedicated to supporting families who advocate on behalf of their children and are committed to reducing the consequences of autism through education, research and advocacy.

The Autism Society of Hawai'i appreciates the opportunity to comment on the proposed SB 21, SD 1. As parents and friends of children with autism and other related disorders, we know that our children have the potential and hunger to learn. Research shows that autism is treatable. States where parents are involved in their children's individualized educational program promotes positive change and outcomes for children. These children have the potential to become contributing, competent and caring citizens.

Under the federal Individuals with Disabilities Education Act (IDEA), children and their families need to access appropriate service programming in order to meet the mandates of a free appropriate public education (FAPE). Many of our special needs children are served under the State's procurement *request for proposal* process.

Section 2 paragraph (1) of this bill is intended to expedite contract awards of less than \$150,000 for health and human services by requiring that awards be made to the “lowest responsive, responsible offeror” or, if that is not practicable, “to the offeror whose quotation provides the best value to the State.”

Under section 103F-404 of the Hawai'i Revised Statutes, “treatment services” designed to alleviate physical or mental illness or behavioral problems are purchased from the provider who is the “most qualified” on a list of pre-qualified providers. This bill would require State agencies to select the low bidder, who may not be appropriately qualified. Chapter 103F contains other provisions for the crisis purchase of services and the restrictive procurement of services that focus on the needs of the beneficiary and reasonable costs, rather than the automatic selection of a low bidder.

Autism is a mystifying and complex disorder. Children and their families need contract providers who are specialized and experienced in autism and other related disorders in order to serve these unique needs on a day-to-day basis. When needs are not met, behaviors can escalate to become exacerbated unless qualified providers are in place. It will be more cost effective to award contract providers and agencies with specialized credentialing standards who promote specialized training and program staff/service development within their agencies. Awarding contracts to the lowest bidder will affect the quality of services of our most vulnerable children, and in this case, with autism.

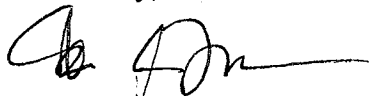
We strongly oppose using the “low bidder” standard and the “best value to the State” standard to purchase services when our children’s lives and welfare are at stake. We are their voice because they are not able to speak for themselves. For many of them, essential windows of developmental opportunity besides dealing with the behaviors are at stake especially when providers are not credentialed and trained to treat their unique needs.

Through the IDEA, Congress has acted to improve the lives of children and their families through education provided to children with disabilities and to ensure that they receive the needed services. Please don't place our children at risk

We respectfully request that the committee amend this bill by (1) exempting Chapter 103F purchases from Section 2 and (2) amending Chapter 103F to require that contracts funded under the American Recovery and Reinvestment Act of 2009 be entered into within the time required by such Act.

Thank you for the opportunity to testify on SB 21, SD 1.

Sincerely,



Naomi Grossman

Autism Society of Hawai'i, president